

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency

P.O. Box 2415

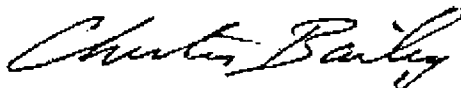
Washington, DC 20013-2415

**Notice FC-45**

**For:** State and County Offices

**Issuance of Guide Letters to Notify Loan Applicants of Adverse Decisions**

**Approved by:** Deputy Administrator, Farm Credit Programs



**1 Overview**

**A**

**Background**

The Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (1994 Act) includes revisions to FSA's administrative appeal process. The revisions extend certain rights to FSA applicants who have been denied Agency assistance. As a result of the 1994 Act and 7 CFR 780, FmHA Instruction 1900-B no longer governs the farm credit appeal process.

**B**

**Purpose**

This notice:

- issues guide letters for use by Field Offices to notify applicants of adverse loan-making decisions and their rights in the appeal process
- ensures consistency among Field Offices.

**Disposal Date**

May 1, 1997

**Distribution**

State Offices; State Offices relay to County Offices and Ag Credit Teams

## Notice FC-45

### 2 Action

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#### A SED Action

SED's shall:

- distribute guide letters (Exhibits 1 through 7) to all Field Offices
  - take steps to ensure that these guide letters are used when notifying applicants of adverse loan-making decisions.
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#### B Field Office Action

Field Offices shall:

- immediately use the guide letters when issuing adverse loan-making decisions

**Note:** The heading on each guide letter indicates when that guide letter will be used.

- continue to use FmHA 1900-1 to notify producers of their appeal rights until this form can be revised and reissued.
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#### C Contact

Direct questions regarding this notice to LMD through the Area Office.

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**Letter for Notifying Applicants, Lenders, Holders, and Borrowers of Unfavorable Decision Reached as a Result of Reconsideration (Decisions Made by the Ag Credit Teams) (Continued)**

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resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation and ADR do not take the place of, or limit your right to, an appeal to the National Appeals Division (NAD). You may skip mediation or ADR and request an appeal. However, in doing so, you will automatically waive your right to mediation.

**Request an Appeal**

You may request an appeal hearing by NAD rather than mediation. The attached Form FmHA 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for an appeal must be postmarked no later than (insert 30 calendar days from the date of this letter.)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

Signature of Decision Maker

Attachment:  
Form FmHA 1900-1

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**Letter for Notifying Applicants, Lenders, Holders, and Borrowers of Adverse Decisions Made by Ag Credit Teams When the Decision Is Appealable**

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Dear (insert name):

After careful consideration, we [were unable to take favorable action on your application/request for Farm Service Agency (FSA) assistance] OR (are canceling/reducing the assistance you are presently receiving). The specific reasons for our decision are as follows:

(Insert the adverse decision and all specific reasons, along with procedural references used in arriving at this decision.)

If you believe this decision or the facts used in this case are in error, you may pursue any or all of the following options:

**Reconsideration**

If you have questions concerning this decision or the facts used in making it and desire further explanation, you may write the County Office at (insert mailing address) to request reconsideration by this office. This written request must be received in the County Office no later than 30 calendar days from the date of this letter. You must present any new information, evidence and/or possible alternatives along with your request. You may also bring a representative or legal counsel with you to any meetings that may result from your request for reconsideration. You may skip this step in the informal process and select one of the following options. If you do, you will automatically waive your right to reconsideration.

**Mediation**

(Insert the following paragraph in States with certified mediation programs:)

You have the right to mediate the issues in this decision that are available for mediation under the (insert State name) mediation program. Informal mediation may enable us to narrow and resolve these issues by agreement. FSA will participate in this mediation. If you want to request mediation or need information to assist you in deciding whether to mediate our decision, you may contact the State mediation program by writing to (insert name, address, and FAX number of the State mediation program). You must request mediation within 18 calendar days of the date of this letter. Send a copy of the request to the State Executive Director (SED) (insert SED name, address, and FAX number). If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation does not take the place of, or limit your rights to, an appeal to the National Appeals Division (NAD). You may skip mediation and request an appeal hearing. However, in doing so, you will automatically waive your rights to mediation and reconsideration.

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Continued on the next page

**Letter for Notifying Applicants, Lenders, Holders, and Borrowers of Adverse Decisions Made by Ag Credit Teams When the Decision Is Appealable (Continued)**

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(Insert the following paragraph in States without certified mediation programs:)

You have the right to request mediation or other forms of alternative dispute resolution (ADR) of the issues in this decision. Informal mediation or ADR may enable us to narrow and resolve these issues by agreement. If you request mediation or ADR, and resources are available, FSA will participate in the mediation or ADR process. To request mediation or ADR, notify the State Executive Director (SED) by writing to (insert SED's name, address, and FAX number). The written notice must be postmarked or FAXed by you no later than 18 calendar days after the date of this letter. The SED will tell you the extent to which resources are available for mediation or ADR and the procedures and other information concerning mediation or ADR. If mediation or ADR does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation and ADR do not take the place of, or limit your rights to, an appeal to the National Appeals Division (NAD). You may skip mediation and request an appeal hearing. However, in doing so, you will automatically waive your rights to mediation and reconsideration.

**Request an Appeal**

You may request an appeal hearing by NAD rather than reconsideration or mediation. The attached Form FmHA 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for an appeal must be postmarked no later than (insert 30 calendar days from the date of the letter).

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

(Signature of Decision Maker)

Attachment:  
Form FmHA 1900-1

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**Letter to Notify Applicants, Lenders, Holders, and Borrowers of Adverse Decisions Made by COC When the Decision Is Appealable**

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Dear (insert name):

After careful consideration, the County Committee (COC) was unable to take favorable action on your application/request for Farm Service Agency (FSA) assistance. The specific reasons for their decision are as follows:

(Insert the adverse decision and all specific reasons for the adverse action; include all procedural references used in arriving at this decision.)

If you believe this decision or the facts used in this case are in error, you may pursue any or all of the following options:

**Reconsideration**

If you have questions concerning this decision or the facts used in making it and desire further explanation, you may write the County Office at (insert mailing address) to request reconsideration by the COC. This written request must be received in the County Office no later than 30 calendar days from the date of this letter. You must present any new information, evidence, and/or possible alternatives along with your request. You may also bring a representative or legal counsel with you to any meeting that may result from your request for reconsideration. You may skip this step in the informal process and select one of the following options. If you do so, you will automatically waive your right to reconsideration.

**Mediation**

(Insert the following paragraph in States with certified mediation programs:)

You have the right to mediate the issues in this decision that are available for mediation under the (insert State name) mediation program. Informal mediation may enable us to narrow and resolve these issues by agreement. FSA will participate in this mediation. If you want to request mediation or need information to assist you in deciding whether to mediate our decision, you may contact the State mediation program by writing to (insert name, address, and FAX number of the State mediation program). You must request mediation within 18 calendar days of the date of this letter. Send a copy of the request to the State Executive Director (SED) (insert SED name, address, and FAX number). If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation does not take the place of, or limit your rights to, an appeal to the State Committee and/or National Appeals Division (NAD). You may skip mediation and request an appeal. However, in doing so, you will automatically waive your rights to mediation and reconsideration.

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**Letter to Notify Applicants, Lenders, Holders, and Borrowers of Adverse Decisions Made by COC When the Decision Is Appealable (Continued)**

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(Insert the following paragraph in States without certified mediation programs:)

You have the right to request mediation or other forms of alternative dispute resolution (ADR) of the issues in this decision. Informal mediation or ADR may enable us to narrow and resolve these issues by agreement. If you request mediation or ADR, and resources are available, FSA will participate in the mediation or ADR process. To request mediation or ADR, notify the State Executive Director (SED) by writing to (insert SED's name, address, and FAX number). The written notice must be postmarked or FAXed by you no later than 18 calendar days after the date of this letter. The SED will tell you the extent to which resources are available for mediation or ADR and the procedures and other information concerning mediation or ADR. If mediation or ADR does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation and ADR do not take the place of, or limit your rights to, an appeal to the State Committee and/or National Appeals Division (NAD). You may skip mediation and request an appeal. However, in doing so, you will automatically waive your rights to mediation and reconsideration.

**Request an Appeal**

You may request an appeal hearing rather than reconsideration or mediation. Your appeal options are as follows:

**Option #1: Appeal to the State Committee**

You may request an appeal of the COC decision by the State Committee. To request an appeal, notify the SED by writing to (insert SED's name, address, and FAX number). The written request must be postmarked or FAXed by you no later than 30 calendar days after the date of this letter. The SED will contact you regarding a time and place for the hearing. If the State Committee upholds the decision of the COC, you will be provided further appeal and reconsideration rights.

**Option #2: Appeal to NAD**

You may request an appeal hearing by NAD rather than and in lieu of reconsideration, mediation, or an appeal to the State Committee. The attached Form FmHA 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for an appeal must be postmarked no later than (insert 30 calendar days from the date of this letter).

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**Letter to Notify Applicants, Lenders, Holders, and Borrowers of Adverse Decisions Made by  
COC When the Decision Is Appealable (Continued)**

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The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

Signature of Decision Maker

(Ag Credit Manager/CED may sign for the COC)  
when delegated authority to do so in writing

Attachment:  
Form FmHA 1900-1

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**Letter for Notifying Applicants, Lenders, Holders, and Borrowers of Unfavorable Decision Reached as a Result of Reconsideration (Decisions Made by the Ag Credit Teams)**

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Dear (insert name):

We appreciate the opportunity to review the facts relative to (your application/request for Farm Service (FSA) assistance). We regret that our meeting with you did not result in a satisfactory conclusion.

(Insert the adverse decision and all specific reasons for the decision. Be sure to identify those items listed in the original letter that have been adequately resolved and those that were not as a result of the meeting.)

If you believe this decision or the facts used in this case are in error, you may pursue any or all of the following options:

**Mediation**

(Insert the following paragraph in States with certified mediation programs:)

You have the right to mediate the issues in this decision that are available for mediation under the (insert State name) mediation program. Informal mediation may enable us to narrow and resolve these issues by agreement. FSA will participate in this mediation. If you want to request mediation or need information to assist you in deciding whether to mediate our decision, you may contact the State mediation program by writing to (insert name, address, telephone number, and FAX number of the State mediation program.) You must request mediation within 18 calendar days of the date of this letter. Send a copy of the request to the State Executive Director (SED) (insert SED name, address, and FAX number). If mediation does not result in resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation does not take the place of, or limit your right to, an appeal to the National Appeals Division (NAD). You may skip mediation and request an appeal. However, in doing so you will automatically waive your right to mediation.

(Insert the following paragraph in States without certified mediation programs)

You have the right to request mediation or other forms of alternative dispute resolution (ADR) of the issues in this decision. Informal mediation or ADR may enable us to narrow and resolve these issues by agreement. If you request mediation or ADR, and resources are available, FSA will participate in the mediation or ADR process. To request mediation or ADR, notify the State Executive Director (SED) by writing to (insert SED's name, address, and FAX number). The written notice must be postmarked or FAXed by you no later than 18 calendar days after the date of this letter. The SED will tell you the extent to which resources are available for mediation or ADR and the procedures and other information concerning mediation and ADR. If mediation or ADR does not result in

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**Letter for Notifying Applicants, Lenders, Holders, and Borrowers of Unfavorable Decision Reached as a Result of Reconsideration (Decisions Made by the Ag Credit Teams) (Continued)**

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resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation and ADR do not take the place of, or limit your right to, an appeal to the National Appeals Division (NAD). You may skip mediation or ADR and request an appeal. However, in doing so, you will automatically waive your right to mediation.

**Request an Appeal**

You may request an appeal hearing by NAD rather than mediation. The attached Form FmHA 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for an appeal must be postmarked no later than (insert 30 calendar days from the date of this letter.)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

Signature of Decision Maker

Attachment:  
Form FmHA 1900-1

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**Letter for Notifying Applicants, Lenders, Holders, and Borrowers of Unfavorable Decision Reached as a Result of Reconsideration (Decisions Made by COC) (Continued)**

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resolution of these issues, you have the right to continue with a request for an appeal hearing as set forth below. When mediation is concluded, you will be notified of the result and the number of days remaining to request an appeal, if applicable. Mediation and ADR do not take the place of, or limit your rights to, an appeal to the State Committee and/or National Appeals Division (NAD). You may also skip mediation or ADR and request an appeal. However, in doing so, you will automatically waive your rights to mediation.

**Request an Appeal**

You may request an appeal hearing rather than mediation. Your appeal options are as follows:

**Option #1: Appeal to the State Committee**

You may request an appeal of the COC decision by the State Committee. To request an appeal, notify the SED by writing to (insert SED's name, address, and FAX number). The written request must be postmarked or FAXed by you no later than 30 calendar days after the date of this letter. The SED will contact you regarding a time and place for the hearing. If the State Committee upholds the decision of the COC, you will be provided further appeal and reconsideration rights.

**Option #2: Appeal to NAD**

You may request an appeal hearing by NAD rather than mediation or an appeal to the State Committee. The attached Form FmHA 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for an appeal must be postmarked no later than (insert 30 calendar days from the date of this letter.)

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

**Signature of Decision Maker**

(Ag Credit Manager/CED may sign for the COC)  
when delegated authority to do so in writing

Attachment:  
Form FmHA 1900-1 \_\_\_\_\_

**Letter to Notify Applicants, Lenders, Holders, and Borrowers that Mediation or ADR Did Not Result in Resolution of Issues When Decision Was Made by Ag Credit Team**

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Dear (insert name):

We have been notified by (insert name of mediation program or ADR facilitator) that your case has been closed. We regret that this (insert type of program -- mediation/ADR) did not result in a resolution of the issues affecting FSA's decision to deny your request for assistance. The specific reasons for our decision were as follows:

(Insert the specific reasons for the adverse decision. These must be the same reasons listed in the original decision letter and must indicate which issues were resolved through the reconsideration and mediation process and which ones remain unresolved.)

If you believe the decision or facts used in this case are in error, you may pursue your right to an appeal by the National Appeals Division. The attached Form FmHA 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for review must be postmarked no later than [insert date] -- Carefully determine the number of days left for requesting an appeal by calculating the number of days between the date of the adverse letter (depending on the applicant's selection of options in the informal process, this will be either the date of the initial denial letter or the date of the letter notifying the applicant of the result of reconsideration) and the postmark on the applicant's request for mediation. Subtract this number from 30. This is the number of days remaining to request an appeal following the conclusion of mediation. For example, the date of the adverse letter is May 1. The postmark on the applicant's request for mediation is May 10. The applicant has 20 calendar days left to request an appeal once mediation is concluded. The letter notifying the applicant that mediation is concluded is dated June 1. The applicant has until June 21 to request an appeal.]

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

Signature of Decision Maker

Attachment:  
Form FmHA 1900-1

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**Letter to Notify Applicants, Lenders, Holders, and Borrowers that Mediation or ADR Did Not Result in Resolution of Issues When Decision Was Made by COC**

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Dear (insert name):

We have been notified by (insert name of mediation program or ADR facilitator) that your case has been closed. We regret that this (insert type of program -- mediation/ADR) did not result in a resolution of the issues affecting FSA's decision to deny your request for assistance. The specific reasons for our decision were as follows:

(Insert the specific reasons for the adverse decision. These must be the same reasons listed in the original decision letter and must indicate which issues were resolved through the reconsideration and mediation process and which ones remain unresolved.)

If you believe this decision or the facts used in this case are in error, you may choose to pursue your appeal rights under the following options:

**Option #1: Appeal to the State Committee**

You may request an appeal of the COC decision by the State Committee. To request an appeal notify the State Executive Director (SED) by writing to (insert SED's name, address, and FAX number). The written request must be postmarked or FAXed by you no later than [insert date -- Carefully determine the number of days left for requesting an appeal by calculating the number of days between the date of the adverse letter (depending on the applicant's selection of options in the informal process, this will be either the date of the initial denial letter or the date of the letter notifying the applicant of the result of reconsideration) and the postmark on the applicant's request for mediation. Subtract this number from 30. This is the number of days remaining to request an appeal following the conclusion of mediation. For example, the date of the adverse letter is May 1. The postmark on the applicant's request for mediation is May 10. The applicant has 20 calendar days left to request an appeal once mediation is concluded. The letter notifying the applicant that mediation is concluded is dated June 1. The applicant has until June 21 to request an appeal.] The SED will contact you regarding a time and place for the hearing. If the State Committee upholds the decision of the COC, you will be provided further appeal and reconsideration rights, if applicable.

**Option #2: Appeal to the National Appeals Division (NAD)**

You may request an appeal hearing by NAD rather than and in lieu of an appeal to the State Committee. The attached Form FmHA 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for an appeal must be postmarked no later than (insert date -- This must be the same date calculated in option #1.)

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**Letter to Notify Applicants, Lenders, Holders, and Borrowers that Mediation or ADR Did Not Result in Resolution of Issues When Decision Was Made by COC (Continued)**

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The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

Signature of Decision Maker

(Ag Credit Managers/CED may sign for the COC)  
when delegated authority to do so in writing

Attachment:

Form FmHA 1900-1

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**Letter Notifying Applicants, Lenders, Holders, and Borrowers of State Committee Decision to Uphold the COC Determination**

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Dear (insert name):

We appreciate the opportunity to review the facts relative to (your application/request for FSA assistance). We regret that our meeting with you did not result in a satisfactory conclusion.

(Insert the adverse decision and all specific reasons for the adverse decision. Be sure to identify those items listed in the original letter that have been adequately resolved and those that were not as a result of the meeting.)

If you believe this decision or the facts used in this case are in error, you may pursue any or all of the following options:

**Reconsideration**

If you have questions concerning this decision or the facts used in making it and desire further explanation, you may write to the State Office at (insert mailing address) to request reconsideration by the State Committee. This written request must be received in the State Office no later than 30 calendar days from the date of this letter. You must present any new information, evidence, and/or alternatives along with your request. You may also bring a representative or legal counsel with you to any meeting that may result from your request for reconsideration. You may skip this step in the informal process and request an appeal as set forth below. However, in doing so, you automatically waive your rights to reconsideration.

**Appeal to the National Appeals Division (NAD)**

You may request an appeal hearing by NAD rather than reconsideration. The attached FmHA Form 1900-1 explains your appeal rights and gives the address where your request must be sent. Your request for an appeal must be postmarked no later than (insert 30 calendar days from the date of this letter.)

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Continued on the next page

**Letter Notifying Applicants, Lenders, Holders, and Borrowers of State Committee Decision to Uphold the COC Determination (Continued)**

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The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

Signature of Decision Maker

Attachment:  
Form FmHA 1900-1

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